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EXAMINER

SMARTH, GERALD A

ART UNIT	PAPER NUMBER
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2146

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/781,029

Applicant(s)

STOCHOSKY, MICHAEL

Examiner

Gerald Smarth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 247/2004 5-5-05

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

1. The instant application having Application No. 10781029 has a total of 37 claims pending in the application; there are 3 independent claims and 34 dependent claims, all of which are ready for examination by the examiner.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 1-13 rejected under 35 U.S.C. 101 because it is non-statutory subject matter.

Claim 1 states a peer for sharing identity-based activity with a plurality of peers. Claims 1-13 refers to a peer. A peer specifically fails to fall within one of the four statutory patent eligible subject matter. It is neither a method, machine, manufacture or composition of matter. Thus claims 1-13 are considered non-statutory.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 1-37 rejected under 35 U.S.C. 102(e) as being anticipated by Briggs et al (7080139).

Regarding claim 1, Briggs teaches a peer for sharing identity-based activity with a plurality of peers, comprising: a content daemon to detect and store identity-based activity; ***(Briggs discloses the present invention includes methods and devices for passively tracking and selectively sharing user experiences with communication devices, including computers, web-enabled telephones, and PDAs; Abstract)*** and an instant messaging module, ***(Briggs discloses the extension following the link may identify a particular instant messaging tool; Column 8 line 8-9)*** communicatively coupled to the content daemon, ***(Briggs discloses each matched entry is added 1627 to the corresponding shared users file within the activity viewer database ("AVD") 1610.)*** to send an indication of recent identity-based activity to at least one of the plurality of peers, the recent identity-based activity related to a user logged-in to the instant messaging module. ***(Briggs discloses so-called***

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"buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences.; Column 2 lline 28-30)

Regarding claim 2, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein identity-based activity comprises content customized by the user that is accessible to the plurality of peers. ***(Briggs discloses User ID, action, item, location, category, rating, emoticon, comment, time, or other relevant field may filter the displayed data from the AVD. The activity viewer of the user refreshes the activity display automatically. The frequency for this refresh may be set by a system administrator and may be modified by the user; Column 13 line 42-43)***

Regarding claim 3, Briggs taught the peer of claim 2, as described above. Briggs further teaches wherein the customized content comprises a current online auction posted by the user. ***(Briggs fig 8D)***

Regarding claim 4, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein identity-based activity comprises instances of active content by a user logged-in to the instant messaging module. ***(Briggs discloses the user selects between sending the item, a link to the item or other item-related information to a buddy who has enrolled to share activity data or to a person listed as an instant messaging buddy; Column 7 line 42-44)***

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Regarding claim 5, Briggs taught the peer of claim 4, as described above. Briggs further teaches wherein recently active content comprises multimedia files played back in the peer. **(Briggs discloses the VUD and VLD databases are readily extended to a visited item database 100, which could include items on a computer, intranet, extranet or any network. These items may be data such as multimedia files, XML documents, database searches or virtually any other material. Column 3 line 39-43)**

Regarding claim 6, Briggs taught the peer of claim 1, as described above. Briggs teaches further comprises an application module to view identity-based content, and wherein the content daemon detects and stores identity-based activity in the application module(fig 13). **(Briggs discloses an activity viewer database ("AVD") 1610 can store information associating particular users with URLs, locations or items; Column 4 line 1-3. Brigs further discloses it includes the activity, internal flag settings, the URL, the page title, the logo, the username, the timestamp & category for an entry;**

Regarding claim 7, Brigs taught the peer of claim 1, as described above. Brigs further teaches wherein the content daemon detects and stores identity-based activity by communicating with an activity server that hosts the identity-based activity. **(Brigs discloses FIGS. 12 and 13 are linked by the capture/track connector 1233.)**

Regarding claim 8, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein the content daemon detects and stores identity-based activity after logging-in the user to the instant messaging module **(FIG. 2 is a user interface for logging in or creating a new account)** . , and wherein the instant messaging module sends an update to the recent identity-based activity. **(Fig 8) (Briggs discloses the columns provided in this embodiment include a tick box 852, a buddy name 853, and one or more instant messaging contact links 854; Column 7 line 64-65)**

Regarding claim 9, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein the indication comprises a unique identifier related to the identity-based activity. **(Briggs discloses when sharing is on, rights defined in the ACL provide access for buddies to the user's activity; Column 6 27-28)**

Regarding claim 10, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein the content daemon is part of an operating system running on the peer. **(Fig 16 element 1610, 1629)**

Regarding claim 11, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein the instant messaging module further outputs a received indication of recent identity-based activity of another user. **(Briggs discloses the AVD holds users' activity parsed into a format for display via the Activity Viewer. It includes the activity, internal flag settings, the URL, the page title, the logo, the**

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username, the timestamp & category for an entry. If a user filters the display of data on the Activity Viewer, data is pulled from this database; Column 4 line 6-7)

Regarding claim 12, Briggs taught the peer of claim 1, as described above. Briggs teaches further comprising a content transaction module to enable a transaction related to the identity-based activity. ***(Briggs discloses FIG. 8D is a topic sharing interface. Both default and particular user or user group administration is supported. Tick boxes 891 and topic or sub topic names 892 can be used; Column 8 line 1-4)***

Regarding claim 13, Briggs taught the peer of claim 1, as described above. Briggs further teaches wherein the peer is communicatively coupled to the plurality of peers through a network. ***(Briggs discloses tracked activity may include Internet activity 120, wireless network location track and interaction activity 121 and enterprise intranet activity 122; Column 4 line 65-68; Briggs further discloses so-called "buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences; Column 2 line 28-33)***

Regarding claim 14, Briggs teaches a method of sharing identity-based activity with a plurality of peers, comprising: detecting identity-based activity; ***(Briggs discloses the present invention includes methods and devices for passively tracking and***

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selectively sharing user experiences with communication devices, including computers, web-enabled telephones, and PDAs; Abstract)

storing the identity-based activity;***(Briggs discloses one distinction between practicing aspects of the present invention and general database processing is storing user-based information; Column 3 line 43-45)***

and sending an indication of recent identity-based activity to at least one of the plurality of peers, the recent identity-based activity related to a user logged-in to an instant messaging module. ***(Briggs discloses so-called "buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences.; Column 2 line 28-30)***

Regarding claim 15, Briggs taught the method of claim 14, as described above. Briggs teaches wherein identity-based activity comprises content customized by the user that is accessible to the plurality of peers. ***(Briggs discloses User ID, action, item, location, category, rating, emoticon, comment, time, or other relevant field may filter the displayed data from the AVD. The activity viewer of the user refreshes the activity display automatically. The frequency for this refresh may be set by a system administrator and may be modified by the user; Column 13 line 42-43)***

Regarding claim 16, Briggs taught the method of claim 15, as described above. Briggs

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further teaches wherein the customized content comprises a current online auction posted by the user. **(Briggs fig 8D)**

Regarding claim 17, Briggs taught the method of claim 14, as described above. Briggs teaches wherein identity-based activity comprises instances of active content by a user logged-in to the instant messaging module. **(Briggs discloses the user selects between sending the item, a link to the item or other item-related information to a buddy who has enrolled to share activity data or to a person listed as an instant messaging buddy; Column 7 line 42-44)**

Regarding claim 18, Briggs taught the method of claim 17, as described above. Briggs teaches wherein recently active content comprises multimedia files played back in the peer. **(Brigs discloses the VUD and VLD databases are readily extended to a visited item database 100, which could include items on a computer, intranet, extranet or any network. These items may be data such as multimedia files, XML documents, database searches or virtually any other material. Column 3 line 39-43)**

Regarding claim 19, Briggs taught the method of claim 14, as described above. Briggs teaches further comprising: viewing identity-based content; and detecting and storing identity-based activity. . **(Briggs discloses FIGS. 12 and 13 are linked by the**

capture/track connector 1233)

Regarding claim 20, Briggs taught the method of claim 14, as described above. Briggs teaches further comprises: detecting and storing identity-based activity independent of viewing identity-based activity(***Briggs discloses an activity viewer database ("AVD") 1610 can store information associating particular users with URLs, locations or items; Column 4 line 1-3.)***)

Regarding claim 21, Briggs taught the method of claim 14, as described above. Briggs teaches wherein the indication comprises a unique identifier related to the identity-based activity. (***Briggs discloses when sharing is on, rights defined in the ACL provide access for buddies to the user's activity; Column 6 27-28)***)

Regarding claim 22, Briggs taught the method of claim 14, as described above. Briggs further teaches wherein the detecting comprises detecting identity-based activity of an application module in an operating system. (***Fig 16 element 1610, 1629)***)

Regarding claim 23, Briggs taught the method of claim 14, as described above. Briggs teaches wherein the instant messaging module further outputs a received indication of recent identity-based activity of another user. (***Briggs discloses the AVD holds users' activity parsed into a format for display via the Activity Viewer. It includes the activity, internal flag settings, the URL, the page title, the logo, the username, the***)

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timestamp & category for an entry. If a user filters the display of data on the Activity Viewer, data is pulled from this database; Column 4 line 6-7)

Regarding claim 24, Briggs taught the method of claim 14, as described above. Briggs teaches further comprising: enabling a transaction related to the identity-based activity. ***(Briggs discloses FIG. 8D is a topic sharing interface. Both default and particular user or user group administration is supported. Tick boxes 891 and topic or sub topic names 892 can be used; Column 8 line 1-4)***

Regarding claim 25, Briggs taught the method of claim 14, as described above. Briggs teaches further comprising: communicating with the plurality of peers through a network. ***(Briggs discloses tracked activity may include Internet activity 120, wireless network location track and interaction activity 121 and enterprise intranet activity 122; Column 4 line 65-68; Brigs further discloses so-called "buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences; Column 2 line 28-33)***

Regarding claim 26, Briggs teaches a computer program product. Briggs teaches comprising: a computer-readable medium having computer program instructions and data embodied thereon for sharing identity-based activity with a plurality of peers, comprising: detecting identity-based activity; ***(Briggs discloses the present invention***

includes methods and devices for passively tracking and selectively sharing user experiences with communication devices, including computers, web-enabled telephones, and PDAs; Abstract)

storing the identity-based activity; (***Briggs discloses one distinction between practicing aspects of the present invention and general database processing is storing user-based information; Column 3 line 43-45)*** and sending an indication of recent identity-based activity to at least one of the plurality of peers, the recent identity-based activity related to a user logged-in to an instant messaging module. (***Briggs discloses so-called "buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences.; Column 2 line 28-30)***

Regarding claim 27, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches wherein identity-based activity comprises content customized by the user that is accessible to the plurality of peers. (***Briggs discloses User ID, action, item, location, category, rating, emoticon, comment, time, or other relevant field may filter the displayed data from the AVD. The activity viewer of the user refreshes the activity display automatically. The frequency for this refresh may be set by a system administrator and may be modified by the user; Column 13 line 42-43)***

Regarding claim 28, Briggs taught the computer program product of claim 27, as

described above. Briggs teaches wherein the customized content comprises a current online auction posted by the user. **(Briggs fig 8D)**

Regarding claim 29, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches wherein identity-based activity comprises instances of active content by a user logged-in to the instant messaging module.

(Briggs discloses the user selects between sending the item, a link to the item or other item-related information to a buddy who has enrolled to share activity data or to a person listed as an instant messaging buddy; Column 7 line 42-44)

Regarding claim 30, Briggs taught the computer program product of claim 29, as described above. Briggs teaches wherein recently active content comprises multimedia files played back in the peer. ***(Briggs discloses the VUD and VLD databases are readily extended to a visited item database 100, which could include items on a computer, intranet, extranet or any network. These items may be data such as multimedia files, XML documents, database searches or virtually any other material. Column 3 line 39-43)***

Regarding claim 31, Briggs taught the computer program product of claim 26, as described above. Briggs teaches further comprising: viewing identity-based content; and detecting and storing identity-based activity. ***(Briggs discloses FIGS. 12 and 13 are linked by the capture/track connector 1233)***

Regarding claim 32, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches comprising: detecting and storing identity-based activity independent of viewing identity-based activity. ***(Briggs discloses an activity viewer database ("AVD") 1610 can store information associating particular users with URLs, locations or items; Column 4 line 1-3.)***

Regarding claim 33, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches wherein the indication comprises a unique identifier related to the identity-based activity. ***(Briggs discloses when sharing is on, rights defined in the ACL provide access for buddies to the user's activity; Column 6 27-28)***

Regarding claim 34, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches wherein the detecting comprises detecting identity-based activity of an application module in an operating system. ***(Fig 16 element 1610, 1629)***

Regarding claim 35, Briggs taught the computer program product of claim 26, as described above. Briggs further teaches wherein the instant messaging module further

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outputs a received indication of recent identity-based activity of another user. ***(Briggs discloses the AVD holds users' activity parsed into a format for display via the Activity Viewer. It includes the activity, internal flag settings, the URL, the page title, the logo, the username, the timestamp & category for an entry. If a user filters the display of data on the Activity Viewer, data is pulled from this database; Column 4 line 6-7)***

Regarding claim 36, Briggs taught the computer program product of claim 26, as described above. Briggs teaches further comprising: enabling a transaction related to the identity-based activity. ***(Briggs discloses FIG. 8D is a topic sharing interface. Both default and particular user or user group administration is supported. Tick boxes 891 and topic or sub topic names 892 can be used; Column 8 line 1-4)***

Regarding claim 37, Briggs taught the computer program product of claim 26, as described above. Briggs teaches further comprising: communicating with the plurality of peers through a network. ***(Brigs discloses tracked activity may include Internet activity 120, wireless network location track and interaction activity 121 and enterprise intranet activity 122; Column 4 line 65-68; Briggs further discloses so-called "buddies" identified on buddy lists of instant messaging products can share selected aspects of their computer usage experiences; Column 2 line 28-33)***

Conclusion

5. The following prior art made of record and not relied upon is cited to establish the level of skill in the applicant's art and those arts considered reasonably pertinent to applicant's disclosure. See MPEP 707.05 ©.

6. The following reference teaches execution of trial data.

US 2004/0064511

US 2002/0156893

US 2003/028585

US 2002/0143944

US 2002/0147810

The examiner requests, in response to this Office action, support be shown for language added to any original claims on amendment and any new claim. That is indicated support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Smarth whose telephone number is (571)270-1923. The examiner can normally be reached on Monday-Friday(7:30am-5:00pm)est.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571)272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Gerald Smarth

9/28/07



JEFFREY PWU
SUPERVISORY PATENT EXAMINER